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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/584,676	05/31/2000	John J. Curro	7897R	2677

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09/05/2002

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EXAMINER

PIERCE, JEREMY R

ART UNIT	PAPER NUMBER
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1771

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DATE MAILED: 09/05/2002

Please find below and/or attached an Office communication concerning this application or proceeding.

mk-9

Office Action Summary

Application No.

09/584,676

Applicant(s)

CURRO ET AL.

Examiner

Jeremy R. Pierce

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 03 July 2002.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-23 is/are pending in the application.
- 4a) Of the above claim(s) 10-20 is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-9 and 21-23 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on _____ is: a) ☐ approved b) ☐ disapproved by the Examiner.
If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. §§ 119 and 120

- 13) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
* See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).
a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☒ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892) 4) ☐ Interview Summary (PTO-413) Paper No(s). _____
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948) 5) ☐ Notice of Informal Patent Application (PTO-152)
- 3) ☒ Information Disclosure Statement(s) (PTO-1449) Paper No(s) 6. 6) ☐ Other: _____

DETAILED ACTION

Response to Amendment

1. Amendment A, filed on July 3, 2002, has been entered as Paper No. 7. Formal Drawings have been entered as Paper No. 8. Claim 1 has been amended and new claims 21-23 have been added. The amendment is sufficient to overcome the 35 USC 112 and 102 rejections set forth in sections 6 and 9 of the last Office Action.

Election/Restrictions

2. Applicant's election of claims 1-9 in Paper No. 7 is acknowledged. Because applicant did not distinctly and specifically point out the supposed errors in the restriction requirement, the election has been treated as an election without traverse (MPEP § 818.03(a)).

Claim Rejections - 35 USC § 102

3. The text of those sections of Title 35, U.S. Code not included in this action can be found in a prior Office action.

4. Claims 1-5, 8, 21, and 22 are rejected under 35 U.S.C. 102(e) as being anticipated by Srinivasan et al. (U.S. Patent No. 5,851,935).

Srinivasan et al. teach a composite web comprising nonwoven webs of carded thermoplastic staple fibers thermally bonded to opposing sides of an elastomeric film (column 2, lines 33-35). The three webs are laminated together by thermal spot

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bonding using a pair of opposed heated calendar rolls (column 4, lines 58-60). The heat and pressure at the bonding spot causes the thermoplastic material of the fibers and the elastomeric material of the film to melt, forming an aperture in the film, but not in the thermoplastic material (column 4, lines 64-67). The thermoplastic fibers fuse to each other across the aperture formed in the film by the melted elastomer, leaving a web of densified and fused fibers extending across the film aperture (column 3, lines 32-36). With regard to claim 2, no adhesive is used. With regard to claim 21, the third layer would be part of said discrete thermal bonds, since the melted film would remain in some degree in the thermal bond. With regard to claim 22, the limitation that the third material is mechanically displaced to form the apertures does not leave the scope of Srinivasan et al. because Srinivasan et al. teach the combination of heat and pressure form the apertures, not just heat (column 4, lines 64-67). The engraved calendar roll would supply a degree of mechanical displacement in the film layer.

5. Claims 1-5, 8, and 21-23 are rejected under 35 U.S.C. 102(b) as being anticipated by Kielpikowski et al. (U.S. Patent No. 4,842,596).

Kielpikowski et al. disclose a laminate comprising an elastomeric film or nonwoven carrier sheet sandwiched between at least a pair of nonwoven facing sheets (column 10, lines 5-18). The facing sheets are thermally bonded through the apertures of the carrier sheet (column 10, lines 20-22). The facing sheets would be pre-bonded, since they can be made by spun-bonded, spun-laced, or meltblown processes (column 11, lines 8-11). With regard to claim 23, Figures 16 and 17 show apertures through the entire laminate web.

Claim Rejections - 35 USC § 103

6. Claim 1, 2, 4, and 7 are rejected under 35 U.S.C. 103(a) as being unpatentable over Seward (U.S. Patent No. 4,062,993) in view of Srinivasan et al.

Seward discloses a composite structure comprising a base fabric, metal foil, and a fiber batt bonded together by means of needle punching (column 1, lines 66-68). The needles penetrate the batt, then the foil, and finally the fabric base to form fiber masses on the free side of the fabric base and to force fibers from the batt back and forth through spaced apart needle punched apertures in the foil (claim 5). Seward does not disclose the fabric layers to be thermally bonded. Srinivasan et al. disclose a method of bonding two nonwoven fabric layers thermally through the apertures of a middle layer rather than mechanically. It would have been obvious to one having ordinary skill in the art to thermally bond the fibers of the nonwoven layers of Seward in order to create a stronger bond between fabric layers, as taught by Srinivasan et al. With regard to claim 4, the fabric base may be nonwoven (column 2, line 65).

7. Claim 6 is rejected under 35 U.S.C. 103(a) as being unpatentable over Srinivasan et al. in view of Griesbach et al. (U.S. Patent No. 5,587,225).

Srinivasan et al. do not teach the middle layer to be material comprising cellulosic tissue paper. Griesbach et al. teach a composite containing two filamentous web layers containing crimped continuous filaments and a cellulosic layer containing cellulosic fibers disposed between (column 1, lines 40-50). The cellulosic layer is a tissue layer (column 10, lines 41-42). Both Srinivasan et al. (column 1, lines 16-17) and

Griesbach et al. (column 2, lines 50-58) teach composites useful in the manufacture of disposable diapers, sanitary napkins, etc. Griesbach et al. teach that using cellulosic fibers in the middle layer of such a composite produces a product with soft cloth-like textural and visual properties (column 1, lines 64-67). It would have been obvious to a person having ordinary skill in the art to use cellulosic tissue paper as the middle layer in the composite disclosed by Srinivasan et al. in order to improve the texture and touch of the personal care product.

8. Claim 9 is rejected under 35 U.S.C. 103(a) as being unpatentable over Srinivasan et al. in view of Phan et al. (U.S. Patent No. 5,338,766).

Srinivasan et al. do not teach the middle layer to be material comprising open cell foam. Phan et al. teach superabsorbent polymer foam that is open cell (claim 1). Phan et al. also teach that the absorptive characteristics of these foams make them useful for incorporation into absorbent articles such as diapers, sanitary napkins, etc. (column 1, lines 20-29). It would have been obvious to a person having ordinary skill in the art to incorporate open cell foam into the composite provided by Srinivasan et al. in order to increase the absorptive properties of the personal care product.

Response to Arguments

9. Applicant's arguments filed July 3, 2002 have been fully considered but they are not persuasive.

10. Applicant argues that Srinivasan et al. do not teach using a prebonded web. However, Srinivasan et al. do teach the nonwoven webs are spot bonded before being

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laminated together (column 4, line 56). Furthermore, the Examiner cannot find support for Applicant's assertion that Srinivasan teach away from using a prebonded web.

11. Applicant argues that Srinivasan et al. do not teach mechanical displacement to form the apertures in the film. However, Srinivasan et al. teach the combination of heat and pressure form the apertures, not just heat. The engraved pattern on the calendar roll would mechanically displace the aperture in the film, in addition to the heat.

12. Applicant's arguments to the Seward reference have been considered, but are moot in view of the new grounds of rejection. Applicant argues that the present invention does not contain materials protruding through the bonded area, but the claims do not preclude this feature.

Conclusion

13. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after the end of the **THREE-MONTH** shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of

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the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Jeremy R. Pierce whose telephone number is (703) 605-4243. The examiner can normally be reached on Monday-Thursday 7-4:30 and alternate Fridays 7-4.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Terrel Morris can be reached on (703) 308-2414. The fax phone numbers for the organization where this application or proceeding is assigned are (703) 872-9310 for regular communications and (703) 872-9311 for After Final communications.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is (703) 308-0661.



Jeremy R. Pierce
Examiner
Art Unit 1771

August 28, 2002



ELIZABETH M. COLE
PRIMARY EXAMINER